



O'MELVENY & MYERS LLP

BEIJING
BRUSSELS
CENTURY CITY
HONG KONG
LONDON
LOS ANGELES
NEWPORT BEACH

Times Square Tower
7 Times Square
New York, New York 10036-6524

TELEPHONE (212) 326-2000
FACSIMILE (212) 326-2061
www.omm.com

SAN FRANCISCO
SEOUL
SHANGHAI
SILICON VALLEY
SINGAPORE
TOKYO
WASHINGTON, D.C.

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WRITER'S DIRECT DIAL
(212) 326-2070

BY ECF

WRITER'S E-MAIL ADDRESS
mpensabene@omm.com

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Flo & Eddie, Inc. v. Sirius XM Radio, Inc., Civil Action No. 13-CV-5784 (CM)

Dear Judge McMahon:

On behalf of our client, defendant Sirius XM Radio, Inc. ("Sirius XM"), we write to request a hearing on Sirius XM's concurrently filed Motion for Reconsideration, Or, In the Alternative, to Certify Order for Interlocutory Appeal ("Motion"). The Motion seeks reconsideration, or certification, of the Court's November 14, 2014, Order Denying Defendant's Motion for Summary Judgment.

Oral argument would aid the Court in its consideration of the new authority presented in Sirius XM's Motion. It would also be appropriate given the complex and far-reaching impact the Court's ruling will have on numerous stakeholders in the music business. As the Court recognized, whether a public performance right exists in pre-1972 sound recordings is a "thorn[y] question ... that has profound economic consequences for the recording industry and both the analog and digital broadcast industries." Order at 16. To permit a full discussion of these issues, Sirius XM respectfully requests a hearing on its Motion.

Sincerely,

/s/ Marc J. Pensabene

Marc J. Pensabene
of O'MELVENY & MYERS LLP

cc: Henry Gradstein (plaintiff's counsel)
Maryann R. Marzano (plaintiff's counsel)
Harvey W. Geller (plaintiff's counsel)